

REMARKS

In view of the above amendments and the following remarks, reconsideration of the rejections and further examination are respectfully requested.

Claims 11-16, 19, and 23 remain cancelled and claims 18 and 20 have been newly cancelled.

Further, independent claims 1, 17, 21, 22, and 24 have been amended to clarify the features of the claimed invention and to further distinguish the claimed invention from the prior art referenced in the rejections discussed below.

The amendment to the specification filed on October 4, 2007 was objected to under 35 U.S.C. § 132(a) for introducing new matter into the disclosure of the invention. Specifically, the Examiner states that (1) the phrase “key delivery apparatus includes ...” on page 3, line 12, (2) the term “deliver” on page 3, line 17, (3) the term “operable” on page 7, line 23, (4) the phrase “program stored on” on page 9, line 18, and (5) the phrase “program includes” on page 9, line 22, introduces new matter into the disclosure of the invention.

Regarding the above-mentioned item (1), the Examiner’s position is respectfully traversed for the following reason. The sentence starting with “The key delivery apparatus includes” spanning lines 4-19 on page 3 of the original specification was amended in the substitute specification filed on October 4, 2007 in order to reduce the length of said sentence and create two sentences which are shorter and more comprehensible than said original sentence. Thus, the second sentence, beginning on line 12 of page 3 (i.e., the sentence objected to), is simply a continuation of the description of the items included in the key delivery apparatus. In addition, it is clear from the originally filed specification that the key delivery apparatus does in fact include the key supply unit as now disclosed in line 12, page 3 of the substitute specification. Therefore, for the reasons discussed above, withdrawal of this portion of the objection is respectfully requested.

Regarding the above-mentioned item (2), the specification has been amended to remove the term “deliver,” as requested by the Examiner. Therefore, withdrawal of this portion of the objection is respectfully requested.

Regarding the above-mentioned item (3), the Examiner's position is respectfully traversed for the following reason. The term "operable" was added to line 23 of page 7 of the original specification to clarify that the sentence spanning lines 19-24 continues to describe the operation (i.e., operability) of the encryption subunit. Specifically, line 20 on page 7 states "an encryption subunit operable to the decryption key and the key-usage period when, " and line 23 merely clarifies that the encryption subunit is "operable to encrypt the decryption key when" It is noted that the originally filed specification clearly states that the encryption subunit is "operable to encrypt the decryption key and the key-usage period when, " and is "operable to encrypt the decryption key when, " as now filed in the substitute specification. Therefore, for the reasons discussed above, withdrawal of this portion of the objection is respectfully requested.

Regarding the above-mentioned items (4) and (5), the specification has been amended to remove the terms objected to by the Examiner. Therefore, withdrawal of this portion of the objection is respectfully requested.

Claim 9 was rejected under 35 U.S.C. § 112, second paragraph, for not having proper antecedent based for the limitation "the predetermined connection period," as recited in line 11. This rejection is respectfully traversed, since the limitation "the predetermined connection period," as recited in line 11, refers to the limitation "a predetermined connection period," as recited in line 8 of claim 9. Therefore, claim 9 does in fact provide proper antecedent basis for the limitation on line 11 which was identified by the Examiner. Therefore, withdrawal of rejection is respectfully requested.

Claims 1-2 and 17-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Maeda (U.S. 2004/0228487) in view of Spagna et al. (U.S. 6,587,837). Further, claims 3-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Maeda in view of various combinations of Spagna, Marshall et al. (U.S. 4,866,707), Mooney et al. (U.S. 6,351,813), and Hamada et al. (U.S. 2004/0028228). These rejections are believed clearly inapplicable to amended independent claims 1, 17, 21, 22, and 24 for the following reasons.

Amended independent claim 1 recites a supply determining unit operable to (if a terminal is a legitimate supply target), determine whether the terminal manages content-usage (i.e., a first-type terminal), and whether the terminal does not manage content-usage (i.e., a second-type

terminal). Further, claim 1 recites a key supply unit operable to, supply to the terminal, (i) the decryption key and a key-usage period, which imposes a restriction on usage of content and is related to the decryption key, if the terminal is determined to be of the first-type, and (ii) the decryption key, without the key-usage period such that a restriction on usage of content is not imposed on the terminal, if the terminal is determined to be of the second-type. The Maeda, Spagna, Marshall, Mooney and Hamada references, or any combination thereof, fail to disclose or suggest the above-mentioned distinguishing features.

The above mentioned 35 U.S.C. § 103(a) rejection of claims 1, 2 and 17-24 relies on Maeda for teaching the supplying of the decryption key and the key-usage period by the key supply unit, as recited in claim 1.

However, Maeda teaches that, if use of content S7 is judged to be permitted, then the usage rights judgment unit 15 continuously transmits a usage permission signal S8 for an entire duration of which the content S7 can be used. Further, Maeda teaches that, if use of content S7 is judged to not be permitted, then the usage rights judgment unit 15 stops transmitting a usage permission signal S8 to prohibit the use of the content S7 (see paragraph [0058] and [0059], lines 6-8). In addition, as a result of the above-described operation (as described in paragraph [0059]), continuous use of content S7 requires a continuous and ongoing transmission of the usage permission signal S8 between the usage rights judgment unit 15 and the decryption unit 14.

Thus, in view of the above, it is clear that Maeda teaches an ongoing and continuous transmission of the usage permission signal during the use of the content in order to continue using content, but fails to disclose or suggest the key supply unit operable to, supply to the terminal, (i) a decryption key and a key-usage period, which imposes a restriction on usage of content and is related to the decryption key, if the terminal is of the first-type, and (ii) the decryption key, without the key-usage period such that a restriction on usage of content is not imposed on the terminal, if the terminal is of the second-type, as required by claim 1.

In other words, Maeda fails to disclose or suggest supplying a decryption key and supplying a key-usage period related to the decryption key (i.e., one transmission of two items of data from the key supply unit) in order for content to be used, as required by claim 1, because Maeda requires a continuous transmission of a permission signal in order for content to be used.

Please note that one of the benefits of the configuration recited in claims 1 is that based on the type of terminal requesting/receiving content, the key supply unit supplies a decryption key and a key-usage period (transmission is not required to be continuous for the entire duration of content usage), which provides an efficient way of allowing and/or restricting use of content. In light of the discussion above, the Maeda reference does not provide the above-mentioned benefit of the invention of claim 1 because a continuous transmission of a usage permission signal for allowing use of content is a different and less efficient structure for allowing and/or restricting use of content.

Therefore, because of the above-mentioned distinctions it is believed clear that the features of the key supply unit, as recited in claim 1, would not have been obvious or result from the disclosure of Maeda.

The above mentioned 35 U.S.C. § 103(a) rejection of claims 1, 2 and 17-24 relies on Spagna for teaching the limitations of the supply determining unit, as recited in claim 1.

However, Spagna merely teaches that a secure container is always transmitted to the end user, regardless of the type of end-user, wherein control of content usage is enabled through an end-user player application 195 running on the end-user device and the end-user application embeds a digital code in every copy of the content that defines the allowable number of copies and playbacks (see col. 10, lines 28-50 and 58-62 and col. 11, lines 57-59 and 63-65).

Thus, in view of the above, it is clear that Spagna teaches that the same type of information is transmitted to the end-user of the content in every copy of the content, but does not disclose or suggest determining whether the terminal manages content-usage (first-type terminal), and determining whether the terminal does not manage content-usage (second-type terminal) in order to supply different types of information to the terminal based on the determination, as required by claim 1.

Therefore, because of the above-mentioned distinctions it is believed clear that the features of the supply determining unit, as recited in claim 1, would not have been obvious or result from any combination of Maeda and/or Spagna.

Furthermore, there is no disclosure or suggestion in Maeda and Spagna or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify

Maeda and/or Spagna to obtain the invention of independent claim 1. Accordingly, it is respectfully submitted that independent claim 1 and claims 2-10 which depend therefrom are clearly allowable over the prior art of record.

Regarding dependent claims 2-10, which were rejected under 35 U.S.C. § 103(a) as being unpatentable over Maeda in view of various combinations of the Spagna, Marshall, Mooney and Hamada references (secondary references), it is respectfully submitted that these secondary references do not disclose or suggest the above-discussed distinguishing features of independent claim 1 which are lacking from the Maeda and Spagna references. Therefore, no obvious combination of Maeda with any of the secondary references would result in, or otherwise render obvious, the invention recited independent claim 1 and claims 2-10 which depend therefrom.

Amended independent claims 21, 22 and 24 recite a system, method, and program, respectively. Amended claims 21, 22 and 24 recite features that correspond to the above-mentioned distinguishing features of independent claim 1 (e.g., determination of the type of terminal apparatus, such as a first-type terminal apparatus and a second-type terminal apparatus, and supplying a decryption key or a decryption key and a key-usage period based on the type of terminal apparatus). Thus, for the same reasons discussed above, it is respectfully submitted that claims 21, 22 and 24 are allowable over Maeda, Spagna, Marshall, Mooney and Hamada.

Regarding the 35 U.S.C. § 103(a) rejection of claims 17-20, it is noted that independent claim 17 now recites a portable recording medium including, in part, a key reception unit operable to (1) receive a decryption key and a key-usage period from a key delivery apparatus, a key storage unit operable to (2) store the decryption key and the key-usage period, a determining unit operable to (3) receive search information from the key delivery apparatus and (4) determine whether the decryption key is stored in the portable recording medium based on the search information, and a notifying unit operable to (5) transmit information indicating that the decryption key is stored in the portable recording medium. The Maeda, Spagna, Marshall, Mooney and Hamada references, or any combination thereof, fail to disclose or suggest the above-mentioned distinguishing features (1)-(5) as recited in independent claim 17.

In the above-mentioned rejection of claim 17, the Examiner relies on paragraphs [0058], [0059] and [0089] and Fig. 3 for disclosing features (1)-(5) as recited in independent claim 17.

However, Maeda teaches that, if the usage rights judgment unit 15 judges that usage of content is permitted, then a usage permission signal S8 is transmitted. Thus, it is clear that Maeda fails to disclose or suggest the portable recording medium which receives and stores the decryption key, receives search information, and transmits information indicating that the decryption key is stored on the portable recording medium, as recited in claim 17. Therefore, because of the above-mentioned distinctions it is believed clear that the features of the key supply unit, as recited in claim 17, would not have been obvious or result from the disclosure of Maeda.

Furthermore, there is no disclosure or suggestion in Maeda or any of the secondary references which would have caused a person of ordinary skill in the art to modify Maeda and/or the secondary references to obtain the invention of independent claim 17. Accordingly, it is respectfully submitted that independent claim 17 is clearly allowable over the prior art of record.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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